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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,332	01/30/2004	Wing Kin Chan	007198-584	5221

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EXAMINER

GRAVINI, STEPHEN MICHAEL

ART UNIT PAPER NUMBER

3749

DATE MAILED: 09/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/767,332

Applicant(s)

CHAN, WING KIN

Examiner

Stephen Gravini

Art Unit

3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>20040810</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Priority*

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-7, 10-13, and 16-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Burkhardt (US 5,553,632). Burkhardt is considered to disclose the claimed invention comprising:

a hair styling attachment including a main housing **10** and at least a pair of hair treating members, said hair treating member includes at least a thermally conductive hair treating surface, said pair of hair treating members being adjacently disposed with the corresponding hair treating surfaces on said pair of adjacent hair treating members generally in compressive contact, said corresponding hair treating surfaces on said pair of adjacent hair treating members being relatively displaceable to form a gap for receiving the hair to be treated, said main housing includes an air inlet and said hair treating surface being communicable with said air inlet (please see column 2 lines 62-67 for the disclosure considered to anticipate the claimed compressive member hair treating claimed feature). Burkhardt is also considered to disclose the claimed adjacent

Art Unit: 3749

hair treating surfaces on said pair of adjacent hair treating members being resiliently displaceable to form said hair engaging gap (column 3 lines 5-13), hair treating members which include a first end and a second end, the first end being a free end and the second end being mounted on said main housing, the first end of at least one of said hair treating member of said pair of hair treating members being resiliently deflectable and/or displaceable with respect to said main housing (column 3 lines 24-33), main housing which includes an upstream end and a downstream end, said hair treating members include a first and a second end, said first end being a free end and protrudes beyond said downstream end (please see figure 2), a first end of said hair treating member being deflectable and/or displaceable relative to said main housing and said corresponding hair treating surfaces being generally convexly disposed with respect to each other (column 3 lines 34-39), a hair treating member resembles a finger with a generally cylindrical body (please see figure 3 wherein the shape of the disclosed comb is considered to resemble a finger with a generally cylindrical body), a plurality of hair treating members, wherein a first and a second hair treating surfaces are formed on some of said plurality of hair treating members, said hair treating surfaces on the same hair treating member being generally diametrically disposed on said cylindrical body (column 3 lines 39-54), air entering said upstream end of said main housing can exit through the gap formed between adjacent hair treating members (column 2 line 7), main housing which includes an attachment means for coupling said device to a hot air blower (column 2 line 59), a plurality of hair treating members, wherein said plurality of hair treating members are linearly disposed (column 2 line 65), and a hair styling

Art Unit: 3749

attachment, a hot air blower, wherein the styling device being detachable from said hot air blower (column 2 line 58).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burkhardt in view of Bauer (US 4,409,998). Burkhardt is considered to disclose the claimed invention, as discussed above under the anticipatory rejection, except for the claimed generally cylindrical main body with a first cylindrical axis, said hair treating member includes at least a cylindrical roller with its cylindrical axis substantially parallel to and off-set from said first cylindrical axis so that at least pad of the cylindrical surface of said cylindrical roller is exposed from said cylindrical surface of said cylindrical main body and forming said cylindrical body and from said hair treating surface. Bauer is considered to disclose the claimed cylinder roller arrangement at column 3 lines 6-65. It

Art Unit: 3749

would have been obvious to one skilled in the art to combine the teachings of Burkhardt with the considered cylinder roller arrangement disclosure found in Bauer for the purpose of treating hair in a curling fashion by operating around a cylindrical roller arrangement.

Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burkhardt. Burkhardt is considered to disclose the claimed invention, as discussed above under the anticipatory rejection, except for the claimed metallic curved surface. It would have been an obvious matter of design choice to provide the teachings of Burkhardt with the claimed metallic curved surface, since applicant has not distinguished those features from the features taught in the prior art with respect to material and shape.

Claims 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burkhardt in view of Rowland (US 4,139,014). Burkhardt is considered to disclose the claimed invention, as discussed above under the anticipatory rejection, except for the claimed bristles generally parallel to the longitudinal axis said hair treating members are disposed on said main housing and wherein the second ends of an adjacent pair of hair treating members co-operatively forms an hair engaging aperture, said hair engaging aperture being convergent towards said upstream end of said main housing. Rowland is considered to disclose the claimed bristle engagement feature at column 3 lines 2-57. It would have been obvious to one skilled in the art to combine the teachings of Burkhardt with the considered bristle engagement feature disclosure found in Rowland

Art Unit: 3749

for the purpose of treating hair in a bristling fashion by operating around a bristle engagement feature arrangement.

**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Reference A, cited in this action, is considered to disclose a hair dryer attachment.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gravini whose telephone number is 703 308 7570. The examiner can normally be reached on normal weekday business hours (east coast time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira S. Lazarus can be reached on 703 308 1935. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Smg 9/27/04

*Stephen M Gravini*